

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

Javier PENA-Gomez,

Defendant

Magistrate Docket No.

2008 AUG -7 AM 10: 49

'08 MJ 2442

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

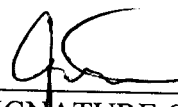
COMPLAINT FOR VIOLATION OF:

BY VNT DEPUTYTitle 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **August 6, 2008** within the Southern District of California, defendant, **Javier PENA-Gomez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
 SIGNATURE OF COMPLAINANT  
 James Trombley  
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 7<sup>th</sup> DAY OF AUGUST, 2008.

  
 Louisa S. Porter  
 UNITED STATES MAGISTRATE JUDGE

08/16/08 VNT

**CONTINUATION OF COMPLAINT:****Javier PENA-Gomez****PROBABLE CAUSE STATEMENT**

On August 6, 2008, at approximately 7:00 a.m., Border Patrol Agent J. Rhodes responded to a sensor activation near Northeast of the Otay Mesa, California Port of Entry. Upon arrival in the area, Agent Rhodes observed a group of eight suspected illegal aliens. Agent Rhodes approached the group and identified himself as a United States Border Patrol Agent. Agent Rhodes then conducted an immigration inspection. All eight individuals, including one later identified as **Javier PENA-Gomez**, admitted to being citizens and nationals of Mexico present in the United States without any immigration documents that would allow them to enter or remain in the United States legally. At approximately 7:30 am, all eight, including the defendant were arrested and transported to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on February 1, 2008 through Nogales, Arizona**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights. The defendant stated that he understood his rights and was willing to answer any questions without a lawyer present. When questioned again as to his citizenship, the defendant freely admitted that he is a citizen and national of Mexico and does not possess the proper documents to enter or remain in the United States legally. He also stated he was going to Los Angeles, California.